

REMARKS/ARGUMENTS

Claims 14-18 and 21-27 remain in this application. Claim 21-23 have been withdrawn as the result of an earlier restriction requirement. Claims 14-20 and 24-26 have been rejected.

§ 103 Rejections

The Examiner has rejected claims 14-20 and 24-26 under 35 U.S.C. 103(a) as being unpatentable over Luburic (US5,938,059) and Foy et al. (US 4,917,255). The Examiner's rejections are respectfully traversed.

In rejecting claims 14 and 27, the Examiner has stated that, "...Foy's...four openings (44) defining a pair of elongated channels for receiving tines of a forklift mechanism; wherein the upper surface and the base sides (14) define a central recess of the container, and the majority of the recess lies between the outermost distance of the pair of elongated channels..." (emphasis added)

The Applicant respectfully points out that the accepted definition of the word "between," when used as a preposition, as listed in "Webster's Ninth New Collegiate Dictionary (page 146, column 2) and at Merriam-Webster Online (<http://www.m-w.com/>) is:

2 a : in the time, space, or interval that separates. (emphasis added)

The Cambridge Dictionary of American English, as listed on their Website (<http://dictionary.cambridge.org>) expands the definition slightly:

in the space that separates two places, people, or objects. (emphasis added)

Example: *She squeezed in between the parked cars.* (emphasis added)

When used as an adjective, InfoPlease (<http://www.infoplease.com/dictionary>) lists:

2. in between, a. situated in an intermediary area or on a line or imaginary line connecting two points, things, etc. (emphasis added)

The Applicant asserts that these definitions are consistent the word “between” as it is used in the specification of the instant application. This is illustrated in the Figures and by the following quote from page 11, line 18 - page 12, line 10,

“...Crate 10 is preferably configured for handling by standard pallet handling equipment. To this end, base 12 preferably has a pair of elongated channels 26 extending parallel to length L for receiving tines of a forklift mechanism (forklift, pallet carrier etc.). Channels 26 typically extend along the entirety of length L, allowing insertion of tines from either end of the crate. Most preferably, at least a major portion of recess 20 is located between channels 26. Thus, considered from a different point of view, crate 10 may be considered to have a thin base 12 in the region of recess 20, with locally raised regions to provide the volume required for channels 26. It will thus be understood that the usable volume of the inside of the crate is fully maximized by making all volume other than that required for channels 26 available for loading with produce. Furthermore, since the sides are stored between the regions of base 12 containing channels 26, nothing overlies the regions of the base 12 containing channels 26 in the collapsed state, making the height of the crate in its collapsed state significantly less than that of “fold-down” crates of similar dimensions...” (emphasis added)


The Applicant respectfully asserts that the Examiner’s inclusion of the words “the outermost distance” are outside of the normally accepted use of the word “between” and its use in the instant application. The Applicant further asserts that without the inclusion of the words “the outermost distance,” the recess of Foy that is defined by the base sides (14) does not meet the definition of the word “between” as used in the instant application. That is, Foy’s recess is located above and extends over the forklift line channels.

The Applicant respectfully contends, therefore, that the Examiner's rejection of the claims based on the Examiner's assertion that the recess of Foy "lies between the outermost distance of the pair of elongated channels" is inappropriate.

The Applicant believes that the above comments completely overcome the Examiner's rejections of claim 14 and 27 on § 103 grounds, and therefore the rejections of claims 15-20 and 24-26, which depend therefrom, are now rendered moot.

In view of the above amendments and remarks it is respectfully submitted that amended independent claims 14 and 27 are in condition for allowance, and are generic to all species of the present invention. Therefore, the applicant asserts that all dependent claims 2-18 and 21-26, are in condition for allowance, including withdrawn claims 21-23.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
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